

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

LP MATTHEWS, L.L.C.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 04-1507 (SLR)
)	JURY TRIAL DEMANDED
BATH & BODY WORKS, INC.,)	
and)	
LIMITED BRANDS, INC.,)	
and)	PUBLIC VERSION
KAO BRANDS CO. (f/k/a THE ANDREW)	FILED: JULY 11, 2006
JERGENS COMPANY),)	
and)	DATED: JULY 6, 2006
KAO CORPORATION,)	
)	
Defendants.)	

**DECLARATION OF DAVID M. HILL, ESQ. IN SUPPORT OF THE
OPENING BRIEF IN SUPPORT OF DEFENDANTS BATH & BODY
WORKS, INC. AND LIMITED BRANDS, INC.'S MOTION FOR SUMMARY
JUDGMENT OF NON-INFRINGEMENT OF U.S. PATENT NO. 5,063,062**

I, David M. Hill, hereby declare as follows:

1. I am a partner of Ward & Olivo, counsel of record in this action for Defendants Bath & Body Works, Inc. and Limited Brands, Inc. (collectively referred to as the "Limited Defendants"). I am a member of the Bar of the State of New York and have been admitted *pro hac vice* to represent the Limited Defendants in this action. I have personal knowledge of the matters stated in this declaration and would testify truthfully if called upon to do so.
2. Attached hereto as Exhibit A is a true and correct copy of United States Patent No. 5,063,062 ("the '062 patent"), dated November 5, 1991.

3. Attached hereto as Exhibit B is a true and correct copy of a spreadsheet of the twenty-seven (27) Limited Defendants' products accused of infringing Claims 6 and/or 9 of the '062 patent.

4. Attached hereto as Exhibit C is a true and correct copy of excerpts from the January 14, 2006 deposition of Phillip Low.

5. Attached hereto as Exhibit D is a true and correct copy of an Office Action Response regarding United States Patent Application Ser. No. 07/413,395, dated September 18, 1990.

6. Attached hereto as Exhibit E is a true and correct copy of an excerpt from the April 27, 2006 deposition of Christopher Rhodes.

7. Attached hereto as Exhibit F is a true and correct copy of an Office Action regarding United States Application Ser. No. 07/786,804 ("the '804 application"), dated April 6, 1992.

8. Attached hereto as Exhibit G is a true and correct copy of an Office Action Response regarding the '804 application, dated July 6, 1992.

9. Attached hereto as Exhibit H is a true and correct copy of the Board of Patent Appeals & Interferences' Decision on Appeal regarding the '804 application, dated April 15, 1997.

10. Attached hereto as Exhibit I are true and correct copies of formula sheets, including extracts and fragrances, for the twenty-seven (27) Limited Defendants' products accused of infringing Claims 6 and/or 9 of the '062 patent.

11. Attached hereto as Exhibit J is a true and correct copy of the Updated Expert Report of Christopher T. Rhodes Pursuant to Federal Rule of Civil Procedure 26(A)(2)(b), dated March 6, 2006.

12. Attached hereto as Exhibit K is a true and correct copy of excerpts from George Hurst's book entitled *Soaps, A Practical Manual of the Manufacture of Domestic Toilet and Other Soaps*, Second Edition, dated 1907.

13. Attached hereto as Exhibit L is a true and correct copy of United States Patent No. 4,014,995, dated March 29, 1977.

14. Attached hereto as Exhibit M is a true and correct copy of the Rebuttal Expert Report of John Carson, M.S., dated March 31, 2006.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed at New York, New York, this 6th day of July, 2006.



David M. Hill